

A D U L T E R Y.

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T H E

T R I A L

O F

MR. WILLIAM ATKINSON,

LINEN-DRAPER, OF CHEAPSIDE,

F O R

*Criminal Conversation*

W I T H

MRS. CONNER,

WIFE OF MR. CONNER, LATE OF THE  
MITRE, AT BARNEY:

WHICH WAS TRIED IN

HILARY TERM, 1789,

I N T H E

COURT OF KING'S BENCH,

B E F O R E

J O H N K E N Y O N,

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## ADVERTISEMENT.

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**T**HE frequency of trials for *Adultery*, by which the parties become so much exposed, would alone, it might be thought, a sufficient reason in some measure to stop some of the many instances that have been exhibited to public view, by a legal investigation of the charges brought by the offended party; or at least have made them more cautious in the commitment of a crime strictly prohibited by the Almighty, and of the most fatal consequence to families. But the contrary has been the effect; notwithstanding the laws of this country have endeavoured

deavoured to recompence the party injured, by giving very heavy damages and expence, which is often followed by imprisonment.

*Adultery* is a crime committed by persons in breach of the faith pledged to each other at the time of their Marriage, and it matters not by which party, the offence being equally censurable and punishable to both ; but it is not always equally alike in its consequence. The following sheets exhibit an instance, supported by strong evidence, and the verdict of an independent jury, that a man in affluent circumstances, and respectable line of business, may be reduced to the confines of a prison by the illicit connections and practices of those bound to cherish and obey him.

Punishments have been annexed to the crime of *Adultery* in most ages and nations, though of different degrees of severity. In many it has been capital, in others only punished by fines. Some of the penalties are serious, and even cruel ; others are of a jocular and humorous kind.

There

There were several modes of punishing *Adultery* among the Grecians, among others that of putting out the eyes. And the Locrians observed this custom in latter ages, being compelled to the observance of it by Zaleucus, their law-giver, whose rigour in executing this law is very remarkable; for having caught his son in *Adultery*, he resolved to deprive him of his sight, and remained a long time inexorable, notwithstanding the whole city was willing to remit the punishment, and requested him to spare the youth. At length, unable to resist the people's importunity, he mitigated his sentence, and redeemed one of his son's eyes, by causing one of his own to be put out; by this glorious act setting a memorable example both of *Justice* and *Mercy*.

Among the Mingrelians, *Adultery* is punished with the forfeiture of a Hog, which is usually eaten in good friendship between the gallant, the adulteress, and the cuckold.



In some parts of the Indies, it is said any man's wife is permitted to prostitute herself to him who will give an Elephant for the use of her, and it is reputed no small glory to her, to have been rated so high.

But in this country, where tortures are not exercised, and justice is not sported with, the punishments for the crime of *Adultery* is by a fine on the man for his illicit connection with another's Wife, and this according to the nature of the case, and the circumstances of the offending party. Whether the following case, supported as it is by the evidence, will warrant the heavy damages of a *Thousand Pounds*, we shall leave our readers themselves to determine.

**ADULTERY,**

## ADULTERY, &amp;c.

**I**N *Hilary* Term, 1789, this Action was brought by the Plaintiff against the Defendant for the recovery of damages to the amount of **TWO THOUSAND POUNDS**, for having Criminal Conversation with Mrs. *Gonner*, the Plaintiff's wife.

The Declaration stated, in the usual language, the comfort arising from the society, the harmony and love of the plaintiff and his wife, until the time of the seduction.

It then charged the defendant, *William Atkinson*, with having seduced the plaintiff's wife, and with having had criminal conversation with her. By which means the plaintiff lost the comfort arising from the

society, the harmony, and love of his wife,  
and thereby sustained great injury

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## P L E A.

The defendant pleaded the usual plea; which, in the language of *Westminster Hall*, is called the *general issue*, viz.—NOT GUILTY.

The effect of this plea is, what all negatives produce, namely: rendering it incumbent on the accusing party to prove the affirmative.

The *substance*, instead of the *literal form* of the pleadings, is thus concisely stated, with a view of conveying at once the real meaning of the action, without perplexing the reader with dry formal cant and professional jargon, intelligible only to the lawyer, and never entertaining to the private individual.

Mr. *Garrow* opened the pleadings.

Mr. *Bearcroft* stated concisely the whole case. The plaintiff, at the time the cause  
of



of the present action arose, kept the *Mitre*, at *Barnet*. The defendant was a linen-draper, in *Bread-street, Cheapside*.

The plaintiff, Mr. *Conner*, and his wife, had lived together for 18 years, previous to the seduction, of which complaint was now made; but the defendant cast the eyes of appetite upon Mrs. *Conner*, with a view of seducing her affection from her husband. For this purpose, he took the steps usual upon these occasions; he ingratiated himself with the plaintiff in the character of his friend—found means to have money transactions with him—this afforded an opportunity of approaching Mrs. *Conner*; for the plaintiff had reposed in her the most implicit confidence, having, for a series of years, entrusted to her the care and management of his business as an innkeeper, and found her attention and assiduity equal to the trust. He had the happiness of perceiving the natural consequences of her industry in her business—that of thriving and flourishing in circumstances; and thus he might have still continued, but for the base conduct of the defendant.

The plaintiff having, however, at last, to his sorrow, discovered familiarities, which were inconsistent with the duties of a wife, between Mrs. *Conner*, and Mr. *Atkinson*, impelled him to enter scrutinously into an inquiry, which furnished him with sufficient evidence of the parties' guilt.

Positive testimony could not be given ; but adultery, like every other act, was capable of proof by circumstantial evidence ; and the natural deduction was to be made, by a consideration of the whole chain of circumstances as they became applicable to the case.

The circumstances were, first, the frequency with which the defendant visited at the *Mitre*, at *Barnet* ; the familiar manner he was there received by Mrs. *Conner*, to which the domesticks would bear testimony ; the situation of the plaintiff, Mr. *Conner*, who was afflicted with the gout, and consequently the less likely to detect the illicit conduct of the parties, disarmed, indeed, of all suspicion by the friendly manner in which the defendant conversed with him ;  
and

and finally, a letter evidently written by the defendant to Mrs. Conner; this letter the defendant had cautiously avoided signing, but it would be proved to be his hand writing, and then it would become evidence. It contained professions of familiar kindness never known but between lovers.

The detection of all the circumstances being disposed of, it would be necessary then to attend a little to the elopement of the plaintiff's wife; the manner she has since conducted herself; from whom she is now in the habit of receiving visits; and then there would not be much difficulty in disposing of the *first* part of the case—namely, the commission of the act of adultery.

The next consideration would be, the amount of the damages; and upon this subject he should, as advocate for the plaintiff, abstain from the use of a single comment, at least in this stage of the proceeding; perhaps indeed he should finally leave it in the hands of the jury, under the direction of the learned and noble judge—Damages vary extremely in these actions, according

to



to the circumstances with which the adultery was attended.

It had been the mode adopted by some advocates, to dwell emphatically upon the serious injury done to the plaintiff, the heinousness of the offence, the necessity of chastising by heavy damages the delinquency of the defendant, and all the train of exaggerated aggravation ; but he had, as an old stager in business of this sort, learned to refer these to the sober discretion of the jury, at least until he was in possession of all the evidence ; for often it became matter of complaint, to be urged against a counsel, that he had opened a case which he had not supported by evidence ; and thus, from the reflection of having endeavoured to mislead the jury, he had only raised their indignation.

It was very true he had not stated a tenth of the matter contained in his instructions ; he had his reason for it—all he required at present of the jury, was to attend to the case, for that he undertook to satisfy them of the guilt of the defendant.

## EVIDENCE FOR THE PLAINTIFF.

*Mary Palmer* being sworn, deposed, that she was servant at the *Mitre*, at *Barnet*, in the character of cook. That she knew the defendant, *Mr. Atkinson*, very well.

She was examined by *Mr. Garrow*. The first question he put to her was—Whether she was a married woman? to which she answered—“Yes.” “Well then,” said the Barrister, “I fancy you and I shall understand each other the better for that.”

She swore, that *Mr. Atkinson* frequently came to the *Mitre*, and seemed very familiar with *Mrs. Conner*; they frequently kissed, and seemed very loving.

That one night her master (*Mr. Conner*) having gone to bed, the defendant, *Mr. Atkinson*, and *Mrs. Conner*, were together in the bar.—*Mrs. Conner*, was sitting on the chair, and *Mr. Atkinson* a-cross her, with his breeches down.—Seeing this, she thought proper to go away.

Her

Her master's bell then ringing, her mistress called her back, bid her tell her master that she (*Mrs. Conner*) would come to him presently, and to tell him that she had been *curling her hair*.

Upon cross examination she was asked, if she was sure that Mr. Atkinson's *breeches* were down when she saw him, as she described, sitting a-cross the lap of *Mrs. Conner*?—Indeed she *was* sure they were down; and when she returned, at the call of her mistress, he had not then done buttoning up.—But, said the counsel, *Mrs. Conner's* cloaths were *smooth down*?—No, indeed, they were *up*.

Q. How did *Mrs. Conner* appear with respect to her cloaths?

A. Her handkerchief was ruffled very much.

Q. When was this?

A. About twelve months ago.

Another night Mr. *Atkinson* was in the bed-room, with *Mrs. Conner*, about twelve minutes;



minutes; and when he came out, Mr. *Conner* being in the bar, which looks into the passage leading to the bed-room, Mr. *Atkinson*, in order to avoid being seen, stooped down.

That she did not communicate to her master any thing about these familiarities, until after he and Mrs. *Conner* had separated. Why should she? It was no business of hers.

That they separated about six months ago.

That her master was a kind, indulgent husband, and that he never spoke disrespectfully of her mistress, except when he was in liquor, and then she never heard him say any thing extraordinary.

The first person she told of these intimacies between Mr. *Atkinson* and Mrs. *Conner*, was a Mr. *Philips*, her master's daughter's husband.

*Sarah Brightwell* swore, she lived, as chambermaid, for two years at the *Mitre*, at  
C Barnet;

*Barnet*; that she knew Mr. *Atkinson* very well.

That her master, Mr. *Conner*, was an old infirm man, afflicted with the gout, unable to walk without help.

That at this time her mistress, Mrs. *Conner*, had the whole management of the business of the inn.

That, as to Mr. *Atkinson* and her mistress, they were very intimate and loving; that they were frequently together in the bed-room, when Mr. *Conner* was in the parlour.

That, as to familiarity, she had often seen them put their hands in one another's bosoms.

That when Mr. *Atkinson* came to *Barnet*, it was always the custom to give him a particular room.

That one morning she went into the bed-room, and Mr. *Atkinson* was in his shirt; he was

was then in bed undressed, and her mistress was in the room, but she was dressed.

That she afterwards made the bed, and is sure there were two persons in it the night before; that she knew that very well, from the two impressions in the bed.

Did she observe from the bed, when she made it, that two persons had lain there?

Yes, she did.

Did she see *any thing on the sheets*?

Yes, she saw something on the sheets, so that she believes a *man and woman had been fondling there*.

How could she tell—she was a young girl, and not married? O! but she knew.—Here the judge observed it was unnecessary to pursue the indelicacy.—The witness then withdrew.

*Rebecca Gould* swore, she was also a chambermaid at the *Mitre*, at *Barnet*; that she knew



the defendant, Mr. *Atkinson*, who very frequently came to the *Mitre*, and she observed Mr. *Atkinson*, and Mrs. *Conner*, behave very familiarly towards each other; of this she was witness to repeated instances. One night, in particular, they went together into a room, saying, they had *particular business to do*, but that they *wanted no light*.—That they accordingly withdrew there, and continued there some minutes. And the witness afterwards opened the door with intention to go in; she saw, by the reflection of the fire in the room, that her mistress was partly undressed; that, in particular, she noticed her *stays* were off.

That Mr. *Atkinson*, when at the *Mitre*, was accustomed to bid the family good night by way of sham intention of going to bed, but would afterwards come down stairs.

Another circumstance she knew, which added to others of the proof of intimacy between Mr. *Atkinson* and Mrs. *Conner*.—When Mr. *Atkinson* came to *Barnet*, Mrs. *Conner* preferred a bed separate from her husband;

husband ; for which purpose a bed was made up for her upon the second floor, in a room adjoining to that in which Mr. *Atkinson* slept. Her master's bed was upon another floor, and so distant, that he could not be disturbed.

On cross-examination, she said her master was much afflicted with the gout ; that he knew of the visits of Mr. *Atkinson*, and expressed no disapprobation of them ; but she did not know or believe he knew any thing of the intimacy between his wife and Mr. *Atkinson*.

Being asked whether Mr. *Conner* did not frequently use his wife ill ?—She answered, No.

Had they any words of a quarrellsome tendency ?

Nothing particular.

Did Mr. *Conner* say any thing disrespectful of his wife at any time ?—When he was in liquor he said once something which might

might be of that kind; but it was a mere trifle, and so regarded.

*John Hogan*, waiter at the *Mitre*, at *Barnet*, swore, he knew *Mr. Atkinson* very well; that he very frequently visited at *Barnet*, and was very familiar with *Mrs. Conner*; that he saw him once kiss her at the bar. That on the night of the 12th of *April* last, he was in a room at the *Mitre*, and *Mr. Atkinson* and *Mrs. Conner* in the room adjoining; that he heard a noise and a shaking, which made him think they were in *some kind of action*; that from the *noise* and *shaking*, he had no doubt what they were about.

How did he know this?

He knew it very well; for after they had done, and gone away, he went into the room, and saw upon the floor *something* which convinced him they had been *connected together as man and woman*.

Had he any doubts of what they had been about?

Not



Not in the least ; what he saw upon the floor was *too plain* to be doubted.

He then gave an account of the circumstances of Mr. *Conner*, previous to the visits of Mr. *Atkinson*, which he described to be in a very flourishing way ; that he had very good business, but that he has since been arrested, and is now in the *King's Bench prison*.

*Thomas Ingram* proved the letter which had been mentioned by the counsel in the opening of the case, was of the hand writing of Mr. *Atkinson*.—Its tenor was accusing Mrs. *Conner* of unkindness for not writing to him—saying, in the true love stile, “ It “ is *unkind Nan* ! ”—and asking “ how that “ person is ? ” (meaning Mr. *Conner*) “ I “ cannot say I wish him better.”

This letter was produced in evidence, on the part of the plaintiff, with a view to lay before the jury matter for their consideration, whether the defendant and Mrs. *Conner* were *tired* of the presence of Mr. *Conner*.

This

This comment will be evident from the following circumstance:

*Rebecca Gould* was again called ; and on being asked how her master was on the evening her mistress went away ?

She answered, that her master was particularly ill that evening.

*Mrs. Greenwood* swore, that *Mr. Atkinson* frequently visited *Mrs. Conner* at her lodgings, after she had left her husband.

## DEFENCE.

*Mr. Bower*, counsel for the defendant, then addressed the jury. He could not follow a better example than his learned friend *Mr. Bearcroft*, and therefore he would follow him by not endeavouring to mislead the jury. His learned friend, knowing perfectly well the nature of the connection between the defendant and the plaintiff's wife, abstained

abstained from stating it. He knew, from his instructions, that the plaintiff himself was well apprised of the character of his wife, which was a very loose one.

The evidence of the criminal intercourse between Mr. *Atkinson*, the defendant, and Mrs. *Conner*, the plaintiff's wife, was abundantly sufficient, and therefore he would readily admit it; consequently a verdict must, in law, pass for the plaintiff; but that the plaintiff knew very well the whole transaction, and never expressed any uneasiness; in consequence no damages could therefore be too small. If in the course of the evidence for the defendant, it should appear that the plaintiff had, for a long time previous to his wife's connection with the defendant, treated her with inattention, that would be a circumstance for the jury to consider in the account of the damages.— But if, as it was stated to him, in the instructions he had, that the plaintiff not only knew, and was privy to the adulterous connection between his wife and the defendant, but that he also treated her with barbarity and brutality—what would the jury



jury think of the merits of the plaintiff's action?

Upon the evidence, as it stood at present, even on the part of the plaintiff, the jury must shut their eyes very close indeed if they did not see that the plaintiff inevitably must have known of the intercourse between the parties ; it should be remembered, that the scene was at a public inn upon a road, where all the transactions passing in the house must be, in a certain degree, public.

All the acquaintance of the plaintiff knew it ; and it was very unreasonable to suppose that the plaintiff was ignorant of it ; if he was, he was the only one in the house in that situation.

The plaintiff's wife had, for a long time, borne a slight character, and the plaintiff himself was well informed of that truth ; or, if he was not, then his inattention to the virtue of his wife was culpable to a degree.

After these facts were substantiated by evidence, could the jury wonder sufficiently  
at

at the imprudence of a man who sought for damages by publishing his own shame ; particularly if they were told that this is not the only action for damages the plaintiff intends to bring for criminal correspondence with his wife ; for he had actually declared, that if he succeeds in this, he will commence another against a person whom he knows has also participated of the favours of Mrs. *Conner*, and have it tried in a distant county, where it shall not be known this action was ever thought of.

The conduct of the plaintiff towards his wife, was also to occupy the attention of the jury. It would appear, that he had treated her in the most shameful manner possible ; he had, at various times, done every thing in his power but turn her out of his house, so that she was at last driven to a state of distraction.

It would appear in evidence, from a professional man, that *arsenick* was, some how or other, introduced into her stomach. These were considerations of the greatest importance, in the decision of the jury,

upon the account of the damages. Indeed Mrs. *Conner* has not, for many years, had the character of a modest woman.

The whole of the case considered, the jury would find this to be an action brought by a man in desperate circumstances; who, in order to extricate himself out of his difficulties, is trading in the infamy of his wife; and, imagining he has good game, is safe in the recovery of any damages the jury may give against the defendant, Mr. *Atkinson*.—But evidence would be given to the jury, which would prove, that the plaintiff, Mr. *Conner*, is mistaken in his object, at least as far as relates to the opulence of Mr. *Atkinson*; for it would appear, that although Mr. *Atkinson* is a man in trade, and a respectable character, yet that he is far from being rich. Such was the nature of the case; which, when proved, he had no doubt would induce the jury to give very slender damages.



EVIDENCE FOR THE DEFENDANT.

*James Hill* being sworn, said, he knew the plaintiff, *Mr. Conner*, and his wife; that sometimes they lived very lovingly, and sometimes they had a few words of difference.

Did he know the plaintiff ever to have abused his wife?

Never.

Did he ever know of her any thing amiss?

Never, *before her acquaintance with Mr. Atkinson.*

The testimony of this witness, although designed to favour the *defendant*, appeared so much in favour of the *plaintiff*, that the defendant's counsel declined asking him any other question.

*Mr. Bearcroft* then asked him,—

Mr.

Mr. *Hill*,—you are a married man ?

I am, Sir.

Did you ever, in the course of your life, contradict your wife ?

A hundred times, Sir.

How long have you known Mr. *Conner* ?

I have known him, as a neighbour, for thirty years ; but I have no particular intimacy with him.

*Charles Clarke* was then called. He swore he knew Mr. and Mrs. *Conner* very well, as a neighbour ; that nothing particular was observable in their behaviour, but what frequently happens between man and wife.

That once, when Mr. *Conner* was a little in liquor, he said of his wife, a little sneeringly, she was a fine woman.

What did *you* think of Mrs. *Conner* ?

I believe

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I believe she was a very industrious, useful wife.

Have you a wife yourself?

I have.

She is of use to you?

She is a very valuable article.

Mr. Bennet swore, he was partner with a Mr. Hayward, and that they had jointly a demand on the plaintiff. That, together with his attorney, he went to the plaintiff to ask for his money, with a view of having some settlement with Mr. Conner, whose wife had, at this time, left him. It was in *September*. That he found the plaintiff very much dejected; in fact, he was crying, and seemed very much afflicted with the reflection of his situation.—But after they had taken between three of them, *two bottles of wine*, the witness having touched upon the elopement of the plaintiff's wife, by observing, "I wonder *Nancy* behaved so."—To which he made answer, "I wonder  
" der



“ der you did *take a slice* yourself.” Here Lord KENYON interposed, and said, “ I will “ not suffer a cause between A. and B. to be “ a vehicle of scandal upon other parties.”

The counsel then proceeded to examine the witness, generally, as to what he heard the plaintiff say of his own wife.

He said he had *not* heard the plaintiff say he would bring an action against any other person.

*Susannah Burton* swore, she has known the plaintiff and his wife for about *seven years* ; that at different times he treated her very ill, but never saw him *strike* her. That he sent her to Mr. *Atkinson* upon money matters.

Upon her cross-examination, she admitted she is the *niece* of Mrs. *Conner* ; that her aunt is now in *Hampstead* ; has a house there ; that she has, about a week ago, seen Mr. *Atkinson* there, but has not seen him there above three times.

*Edmund*

*Edmund Dingrum* swore, he lived with *Mr. Conner* for some time; that he knew nothing remarkable between *Mr. Conner* and his wife. The counsel proceeding to hint instances interrogatively.—*Lord Kenyon* interrupted him, and said, that particular instances, as they reflected upon individuals, he could not suffer to be adduced;—all the defendant could urge upon this head, in mitigation of damages, was such as to affect the general felicity of the parties in the conjugal life.

On his cross-examination, he said he knew *Mr. Atkinson* and *Mrs. Conner* to be very fond of each other; that great intimacy subsisted between them; for that she sent him an hundred times, presents consisting of *hams, geese, ducks, hares, partridges,* and other things.

*Doctor William Garrow* was then examined, and deposed, that he, as a medical man, attended the family for many years back; that he did not look upon *Mrs. Conner* as a woman of good character; and more particularly when the 18th regiment

REPLY. E of

of Royal Irish were at *Barnet*, doubts were entertained of the chastity of Mrs. *Conner*.

That about 17 years ago Mrs. *Conner*, upon some disagreement with her husband, took arsenick.

*Henry Randall* was called with a view of proving the circumstance of Mr. *Atkinson*, as to the amount of his property. That he conceived him not to be a rich man; for that on the 15th of *January* he took the balance of his accounts, at that time he appeared to be worth between seven and eight hundred pounds;—it was not quite eight hundred.

Lord KENYON said, “I do not much admire this sort of evidence; here comes a person to swear to the circumstances of the defendant, from a statement taken just at the time the action is going to be tried, when the amount may be supposed material to influence the decision as to damages.”

REPLY.



## R E P L Y.

Mr. *Bearcroft* then, in reply, observed, it was true what was remarked to the jury by the learned counsel, on the part of the defendant, namely, that he had learnt, and he might say, without vanity, by experience, which is said to be the mistress of fools, the propriety of avoiding a florid description of the happiness of the parties previous to the seduction, chusing to rest that part of the case upon the evidence, not only for the plaintiff, but the whole evidence on both sides; and now that the whole was before the jury, he protested that, so far from being changed in his opinion upon the merits of the case from the whole of the evidence, he actually declared, that there was not a witness produced on the part of the *defendant*, (except one) whom he would not have been glad to call on the part of the *plaintiff*, had he been permitted, by the practice of the court, to do so.

It was in evidence before the jury, that the plaintiff was a husband in possession, not only of the *beauty* of a wife, but of *merit* infinitely beyond it. That he married her, knowing she was capable of conducting his business as an inn-keeper, a task which she undertakes, and to which she is found abundantly equal, until her unfortunate connection with the defendant commences; she then neglects him—and, from a comfortable state of affluence, he is reduced to poverty and want; which ends in his being carried to a goal, where he groans under the torture of disease of body, and, what is still more painful, agony of mind;—while his wife, with all the impudence of prostitution, is kept in luxury at the expence of her adulterous paramour. This he, at the opening, forbore to mention; but as it was now proved, it was fair to recite it.

He professed himself really obliged to those who were at the bottom of this defence, for they had really contributed to the cause on the part of the plaintiff. View the evidence of the defendant;—instead of proving

proving what they were called for, that the plaintiff's wife was an *idle, dissolute woman*, they had proved she was an *industrious wife*. Instead of proving the plaintiff and his wife were always at variance, from the ill-treatment she received, they had sworn, that no extraordinary disagreement had ever happened between them. It was not his custom to recite the particulars of evidence; but here it was so singular and striking, that it deserved particular notice.

As to the idea of Mrs. Conner being a prostitute *after* her seduction by Mr. Atkinson, it was a circumstance so far from extenuating his guilt, that it was an high exaggeration of the offence; for it was the natural consequence of the original breach of the conjugal contract.

With regard to the great loss the plaintiff had sustained, by the conduct of the defendant in seducing the wife, it was only necessary to refer to the evidence of Mrs. Conner's own niece, who had proved the wife had all the management of Mr. Conner's pecuniary concerns; that, in point of  
fact



fact, all his business was under her care and controul, and was entirely transacted through the medium of her agency; and which she, in consequence of this criminal intercourse, entirely neglected.

It was evident that Mrs. Conner had long been in the habit of pampering her paramour with *game*, hares, partridges, and so forth, to a vast amount, at the expence of her injured husband. Indeed, the whole of this case considered, impelled him to lament the damages were not stated at a higher sum than *two thousand pounds*; for when the jury came to reflect, and to feel themselves as men in the exercise of their duty to the public, by way of example, as well as administering some relief to an afflicted injured individual, they could not hesitate in giving every shilling for which the plaintiff had declared damages.

Although it was not formally proved the plaintiff is now in goal at the suit of Mr. *Atkinson*, yet it is clear in goal he is, and that too in consequence of an injury done to him by the defendant; he should therefore  
wait

wait in perfect conviction they would give the amount to a shilling, for which the plaintiff had declared. The jury had an opportunity of holding out terror to persons of profligate dispositions, by convincing them, that those who commit serious injuries, will meet serious chastisement. He should therefore rest the whole case to the jury, and attend seriously to the verdict they should give in this cause.

Lord KENYON then took a view of the trial, by way of direction to the jury.

If the whole charge of adultery be proved, it is the most mischievous attack man can make on man.

The spirit of the law is, that such serious injury shall be atoned for; and reparation given, as far as it is possible, to the injured party, for the trespass occasioning the loss.

It was also the spirit of the law to allow juries, in some degree, to protect the morality of mankind by chastising those who commit immoral acts; this they were empowered

powered to do by charging such persons with heavy damages.

It was also the rule of law, that where a man becomes the pander to his wife's lust, he shall not be permitted to complain, for he is an accomplice in her guilt.

With respect to the present trial, the jury would be relieved from inquiring into a point which often came before juries upon trials for adultery, namely,—Whether adultery was committed, or not?—Of this there was abundant evidence; so much, indeed, as to supercede the necessity of summing up the evidence upon that point.

It was necessary only to view the evidence as it applied to the subject; then the only one to be considered by the jury, namely—the amount of the damages; and upon this, it appeared, the plaintiff was a cripple, and unable, consequently, by activity, to detect any irregularities committed in his house.

It had been urged, on the part of the defence, that Mrs. Conner was a woman of  
unchaste



unchaste character; but the case from the evidence, was entirely delivered from all imputation upon her character, previous to her acquaintance with Mr. *Atkinson*, the defendant.

What apology can be made for adultery in any case? There may be some alleviation, some extenuation offered. For instance;—where a young man, in the hey-day of warm blood, and the bloom of youth, commits an act of indiscretion, justice required he should atone for it; but justice would not require punishment should be inflicted with a vindictive hand, but that moderation should be observed, and some allowance made to juvenile indiscretion, and the frailty of human nature, at a period of life when temptation was the most powerful; and although the law, in strictness, would not allow extenuation, yet through the medium of the jury, it permitted discretion to feel for human infirmity.

None of these apologies could, however, be claimed by the defendant; he was a man who had arrived at an age when it is

natural to expect discretion ; and he had committed a breach of all moral, civil, and religious obligation. The absolute controul Mr. *Atkinson* had over Mrs. *Conner*, was the leading cause which brought on her ruin.

There appeared in evidence a familiar intercourse between Mr. *Atkinson* and Mrs. *Conner* even now ; he could not, as a judge, whose duty it was to point out what appeared to him to be substantial justice, recommend to the jury to give slender damages in this case.

In general, the rule is to consider the circumstances of the defendant, and to regulate in some degree, the amount of damages, so that the defendant may be able to pay the whole, without a prospect of being consequently imprisoned ; but this doctrine was applicable only to cases which were not atrocious in the manner in which they were committed, and where extenuation was admissible ;—but in other cases, where no apology can possibly be offered, the law says, “ The captivity of the person “ must pay for the deficiency of the purse.”

It was not the plaintiff only who had a right to be satisfied, but the public had also a right to be satisfied; for the public are interested in causes of this nature, inasmuch as it generally goes forth to the world what has been the event of trials of this description.—“With you, Gentlemen,” said his lordship, “I leave it; and I dare say “the verdict will be commensurate to the “damages.”

The jury withdrew, and deliberated for an hour, and gave their verdict for the *plaintiff*—damages ONE THOUSAND POUNDS.

F I N I S.

*Edw. G. M. B.*